

555 Eleventh Street, NW, Suite 1000  
 Washington, DC 20004  
 Tel: +1.202.637.2200 Fax: +1.202.637.2201  
 www.lw.com

**LATHAM & WATKINS** LLP

FIRM / AFFILIATE OFFICES

Austin	Milan
Beijing	Munich
Boston	New York
Brussels	Orange County
Century City	Paris
Chicago	Riyadh
Dubai	San Diego
Düsseldorf	San Francisco
Frankfurt	Seoul
Hamburg	Shanghai
Hong Kong	Silicon Valley
Houston	Singapore
London	Tel Aviv
Los Angeles	Tokyo
Madrid	Washington, D.C.

December 1, 2023

**MEMO ENDORSED**

**VIA ECF**

Hon. Laura Taylor Swain  
 United States District Judge  
 Southern District of New York  
 500 Pearl Street, Courtroom 17C  
 New York, New York 10007

Re: *Harker v. Meta Platforms, Inc., et al. No. 23 Civ. 7865 (LTS) (SDA)*  
 - Joint Extension Request

Dear Judge Swain:

Defendants Meta Platforms, Inc., Association of Independent Commercial Producers, Inc., Something Ideal, LLC, and BBDO Worldwide, Inc. (“Defendants”) jointly write in response to this Court’s request dated November 27, 2023 (ECF No. 35) for clarification regarding the status of Defendants’ pending motions to dismiss (ECF Nos. 24 and 26) in light of Plaintiff’s amended complaint, filed November 22, 2023 (ECF No. 34). Defendants respectfully request that Your Honor deny the pending motions to dismiss as moot without prejudice to give Defendants the opportunity to respond to the new allegations raised by Plaintiff in his amended complaint.

By operation of Federal Rule of Civil Procedure 15(a)(3), Defendants’ current deadline to respond to the amended complaint is December 6, 2023. Defendants respectfully request that Your Honor extend the deadline to December 19, 2023. Extending the deadline would afford counsel necessary time to review the amended complaint fully before finalizing a response, especially in light of the Thanksgiving holiday. Plaintiff consents to the requested extension and the below proposed schedule.

Date	Deadline
December 19, 2023	Last day for Defendants to answer, move to dismiss, or otherwise respond to Plaintiff’s amended complaint.
January 25, 2024	Last day for Plaintiff to serve opposition to any motion(s) to dismiss.
February 22, 2024	Last day to serve reply papers in further support of motion(s) to dismiss.

LATHAM & WATKINS<sup>LLP</sup>

We appreciate Your Honor's consideration of this request.

Respectfully submitted,

/s/ Danielle Conley

Danielle Conley

Christine C. Smith (admitted *pro hac vice*)

Jasmine D. Benjamin (admitted *pro hac vice*)

555 Eleventh Street, NW, Suite 1000

Washington, D.C. 20004

Tel: (202) 637-2200

Fax: (202) 37-2201

Email: danielle.conley@lw.com

christine.smith@lw.com

jasmine.benjamin@lw.com

Melanie M. Blunski (admitted *pro hac vice*)

Catherine A. Rizzoni (admitted *pro hac vice*)

505 Montgomery Street, Suite 2000

San Francisco, CA 94111

Tel: (415) 391-0600

Fax: (415) 395-8095

Email: melanie.blunski@lw.com

cat.rizzoni@lw.com

*Attorneys for Defendant Meta Platforms, Inc.*

cc: All Counsel of Record (via ECF)

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JAMES HARKER,

Plaintiff,

v.

META PLATFORMS, INC., ASSOCIATION  
OF INDEPENDENT COMMERCIAL  
PRODUCERS, INC., SOMETHING IDEAL  
LLC, doing business as “MISS NGPECES,”  
and BBDOWORLDWIDE, INC.,

Defendants.

Case No. 1:23-cv-07865 (LTS) (SDA)

**STIPULATION AND ~~PROPOSED~~  
ORDER EXTENDING TIME TO  
ANSWER OR MOVE IN RESPONSE  
TO PLAINTIFF’S AMENDED  
COMPLAINT**

**IT IS HEREBY STIPULATED AND AGREED** by and among plaintiff James Harker (“Plaintiff”) and defendants Meta Platforms, Inc., Association of Independent Commercial Producers, Inc., Something Ideal, LLC, and BBDO Worldwide, Inc. (“Defendants”), that:

- (a) the time within which Defendants may answer or move in response to Plaintiff’s complaint is hereby extended to, and including, December 19, 2023;
- (b) in the event any party moves to dismiss the complaint, Plaintiff’s answering brief shall be due on or before January 25, 2024;
- (c) any reply briefs on such motion shall be due on or before February 22, 2024;  
and
- (d) this stipulation may be executed in counterparts, and facsimile, electronic, and .pdf signature shall be considered originals for purposes of this stipulation.

Dated: December 1, 2023  
Washington, D.C.

Respectfully Submitted,

**LATHAM & WATKINS LLP**

/s/ Danielle Conley

Danielle Conley

Christine C. Smith (admitted *pro hac vice*)

Jasmine D. Benjamin (admitted *pro hac vice*)

555 Eleventh Street, NW, Suite 1000

Washington, D.C. 20004

Tel: (202) 637-2200

Fax: (202) 637-2201

Email: danielle.conley@lw.com

christine.smith@lw.com

jasmine.benjamin@lw.com

Melanie M. Blunschi (admitted *pro hac vice*)

Catherine A. Rizzoni (admitted *pro hac vice*)

505 Montgomery Street, Suite 2000

San Francisco, CA 94111  
Tel: (415) 391-0600  
Fax: (415) 395-8095  
Email: melanie.blunschi@lw.com  
cat.rizzoni@lw.com

*Attorneys for Defendant Meta Platforms, Inc.*

**ELLENOFF GROSSMAN & SCHOLE  
LLP**

/s/ Paul P. Rooney<sup>1</sup>

Paul P. Rooney  
Jaclyn Ruocco  
Nicola Cilotta  
1345 Avenue of the Americas, 11th Floor  
New York, NY 10105  
(212) 370-1300  
prooney@egsllp.com  
jruocco@egsllp.com  
ncilotta@egsllp.com

*Attorneys for Defendant Association of  
Independent Commercial Producers, Inc.*

**VENABLE LLP**

/s/ Jessie F. Beeber

Jessie F. Beeber  
Nicholas M. Reiter  
151 W. 42nd Street, 49th Floor New  
York, New York 10036  
(212) 808-5677  
jbeeb@venable.com

*Attorneys for Defendant Something  
Ideal, LLC*

**DAVIS+GILBERT LLP**

/s/ Guy Cohen

Guy Cohen  
Angela Dunay  
1675 Broadway  
New York, New York 10019  
(212) 468-4853  
gcohen@dglaw.com  
adunay@sglaw.com

*Attorneys for Defendant BBDO Worldwide,  
Inc.*

**MURRAY-NOLAN BERUTTI LLC**

/s/ Ronald A. Berutti

Ronald A. Berutti  
30 Wall Street, 8th Floor  
New York, New York 10005  
(212) 575-8500  
ron@murray-nolanberutti.com

*Attorney for Plaintiff James Harker*

---

<sup>1</sup> Defendants' use of electronic signatures with consent is in accordance with Rule 8.5(b) of the Court's ECF Rules and Instructions.

**SO ORDERED THIS 5th DAY OF December, 2023**

/s/ Laura Taylor Swain

**Laura Taylor Swain**  
**United States District Judge**

The Court hereby denies the pending motions to dismiss as moot without prejudice to give Defendants the opportunity to respond to the new allegations raised by Plaintiff in his amended complaint. DE nos. 24, 26, and 37 resolved. SO ORDERED.

12/5/2023

/s/ Laura Taylor Swain, Chief USDJ